



DEPARTMENT OF DEFENSE



Defense Civilian Personnel Advisory Service

# Special Retirement coverage for Law Enforcement Officers and Firefighters

Matthew Costello, Senior Benefits & Work Life Program Manager



6/26/201

9

# Objectives

---

- Determine retirement coverage for employees assigned to LEO/FF
  - primary/rigorous positions
  - secondary positions
  
- Auditing individual special retirement coverage

# Types of Special Retirement Positions

---

Duties are defined by law and regulation:



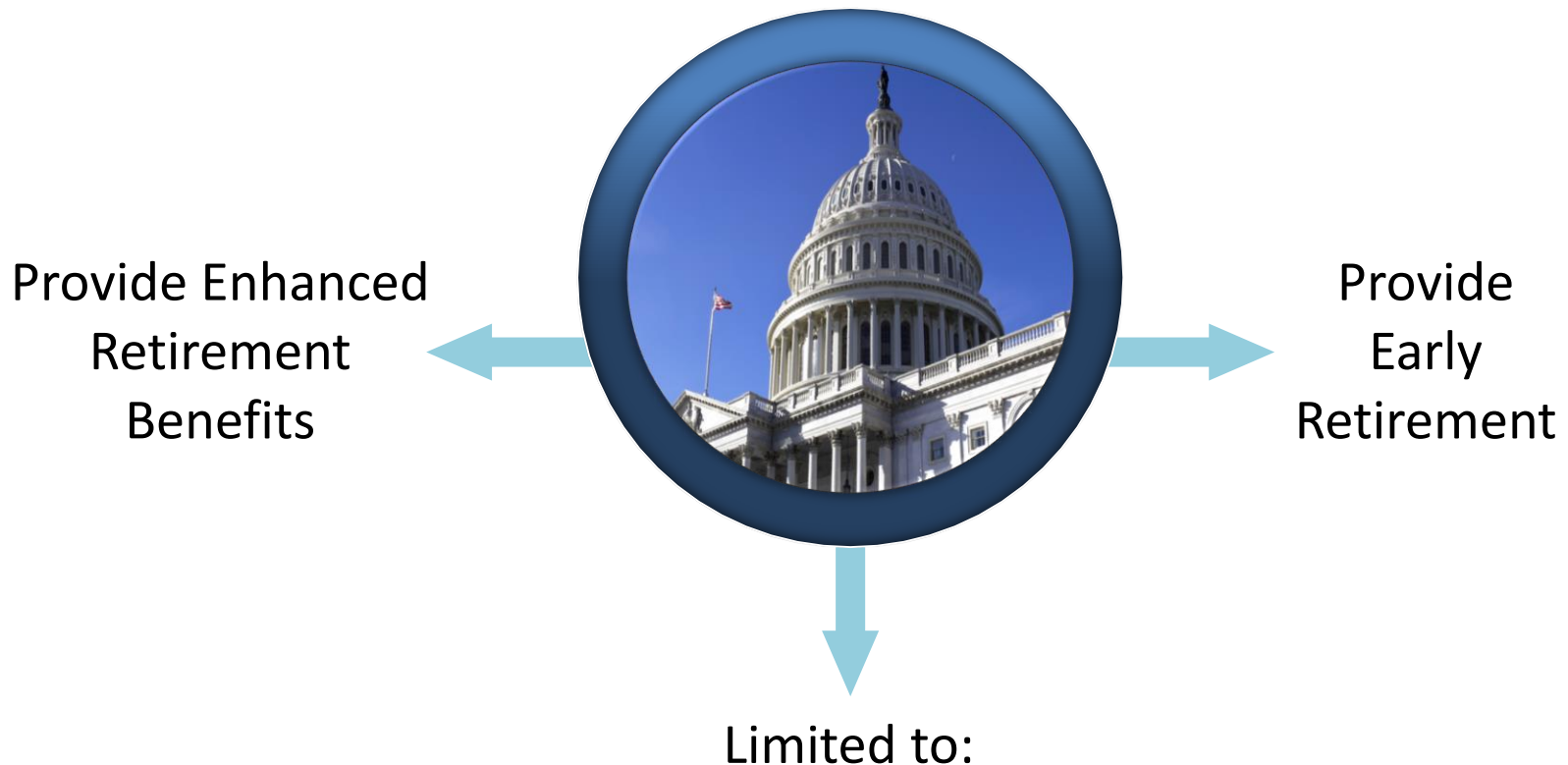
Law Enforcement Officer (LEO)



Firefighter (FF)

# Legislative Intent

---



- Occupations which are more physically taxing than most Federal positions
- Young employees physically capable of meeting vigorous demands

# Position Approval

---

- Approval authority = Agency Head
  - Agency Head can designate one person
  - Within the DoD, this authority has been delegated to the Under Secretary of Defense (Personnel and Readiness) (USD (P&R))

# DoD Position Approval Process

---

1. Component recommendation & request is generated
2. Package preparation & review initiated by Defense Civilian Personnel Advisory Service (DCPAS) Action Officer
3. Review of legal qualifications by the Office of General Counsel (OGC)
4. Final approval is completed by the Under Secretary of Defense for Personnel and Readiness, USD (P&R)

# Position Categories

---

## Primary (CSRS) or Rigorous (FERS) – Front-line

- LEO - Investigate, apprehend, or detain criminals
- FF - Directly control and extinguish fires

## Secondary – Non Front-line

- Supervisory
- Administrative

# Maximum Entry Age & Reentry Age

---

- Maximum entry age of 37\*
- Reentry covered primary position DoD 1400.25-V336 (issued Dec 19, 2001)
- Can be rehired/assigned to a primary or rigorous position if they will be able to complete 20 years of covered LEO/FF service by age 57
- Age waiver (prior to appointment) based on compelling agency need

**\*Note:** *MSPB 146 – Changes Maximum Entry-Age Restrictions for Veterans' Preference Eligible*



# Reentry Age - Example

---

- Jimmy was first hired as a Firefighter at age 28. He worked for six years without a break in service before resigning. He did not take a refund of his FERS retirement contributions. He turns age 42 this month and has applied for reinstatement as a primary firefighter. Does he meet the reentry age?

# Reentry Age – Example (con't)

---

- Jimmy has six years of creditable FERS FF service
- He needs an additional 14 years of FF service (20 total) by age 57 to meet the reentry age.
- He is 42 years old. He will complete 20 years of service by age 56 ( $42 + 14 = 56$ ). So he meets the reentry age qualifications.

# Non-LEO Position Exceptions

---

- **GS-083 DoD Policemen and Detectives**
  - Some received Special Retirement coverage by decisions from the Merit Systems Protection Board (MSPB)
  - These decisions applied only to the positions they held at that time
  - MSPB did not grant general coverage
- **Watson Decision** – clarified that Policemen and Detectives do not meet the LEO criteria

# Position Approval vs Employee Coverage

---

## Position Approval

Determine if duties meet LEO/FF definition

## Employee Retirement Coverage

Determine if an employee will be subject to special retirement coverage

- Higher **retirement contributions**
- Maximum entry age & mandatory separation age

# Details and Temporary Promotions

---

## Position of record governs

- A Firefighter (primary) is injured on the job and is Detailed to a librarian position (non-covered). Special retirement coverage continues.
- A Librarian (non-covered) is temporarily promoted to a Firefighter position (primary). Regular retirement coverage continues.

# Retaining Special Retirement Coverage

**What happens when employees transfer from a  
Primary to Secondary position?**

# Transfer Requirements

---

All 3 requirements must be met in order to keep Primary coverage:

1. Move **directly** from a primary to a secondary position
2. Have **Previous Primary** service
3. **Continuous** employment in a secondary position

# What is a Direct Move?

---

## 1. Direct Move

- Move from a primary position to a secondary position
- While covered by special retirement
- Without a break in service



# Is This a Direct Move?

---

Bill is a primary firefighter serving in a Temporary appointment, FICA only. He is converted (without a break in service) to a Career Conditional appointment as a Secondary Supervisory Firefighter.

# Answer

---

Bill moved from a Primary FF position to a Secondary FF position. He was not covered by special retirement at the time of the move. This is not a direct move.

# Transfer Requirements for Primary Service

---

## 2. Primary Service

- CSRS = any amount (1 day)
- FERS = 3 years

# Primary Service

---

## FERS 3-Year Service Requirement

- Position must be approved as primary (CSRS) or rigorous (FERS)
- Retirement deductions are not required; for transfer requirement purposes, refunded service can be included
- Temporary or intermittent service in approved positions can be counted (even after 1/1/1989)

# Primary Service continued

---

## FERS 3-Year Service Requirement

- Federal civilian service under another Federal retirement system may be used (if qualifying)
- The 3 years of service does not have to be consecutive (served all at once)

# Is the 3-Year Service Requirement Met

---

Barbara worked 2 years as a primary firefighter and Resigned due to family issues. Several years later she was rehired as a primary firefighter under FERS-Special. One year later, she is Reassigned to a secondary position. Does she meet the 3-year service requirement?

## Answer

---

Yes, she meets the 3-year service requirement. Barbara worked 2 years as a primary Firefighter in her first appointment, and an additional year in her second appointment. She had at least 3 years of primary FF service before moving into the secondary position.

# Transfer Requirement for Continuous Employment

---

## 3. Continuous Employment

- Special retirement coverage continues if employee remains in the secondary position(s)
- Without break in service of more than 3 days



# Continuous Employment

---

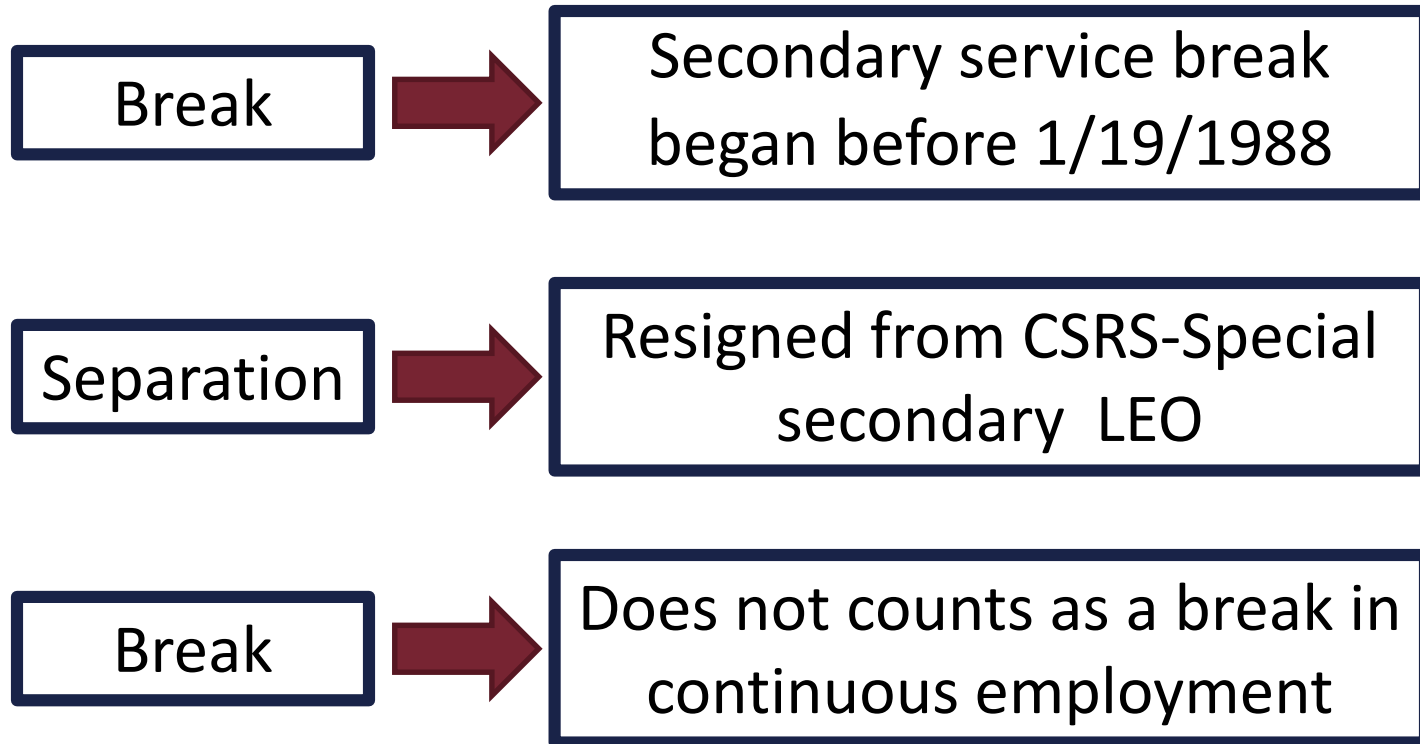
When determining whether secondary service is continuous **do not** count:

- A break that began before Jan 19, 1988 (CSRS only), or
- A break that was based on an involuntary separation (not for cause)

# Is this Continuous Employment?

---

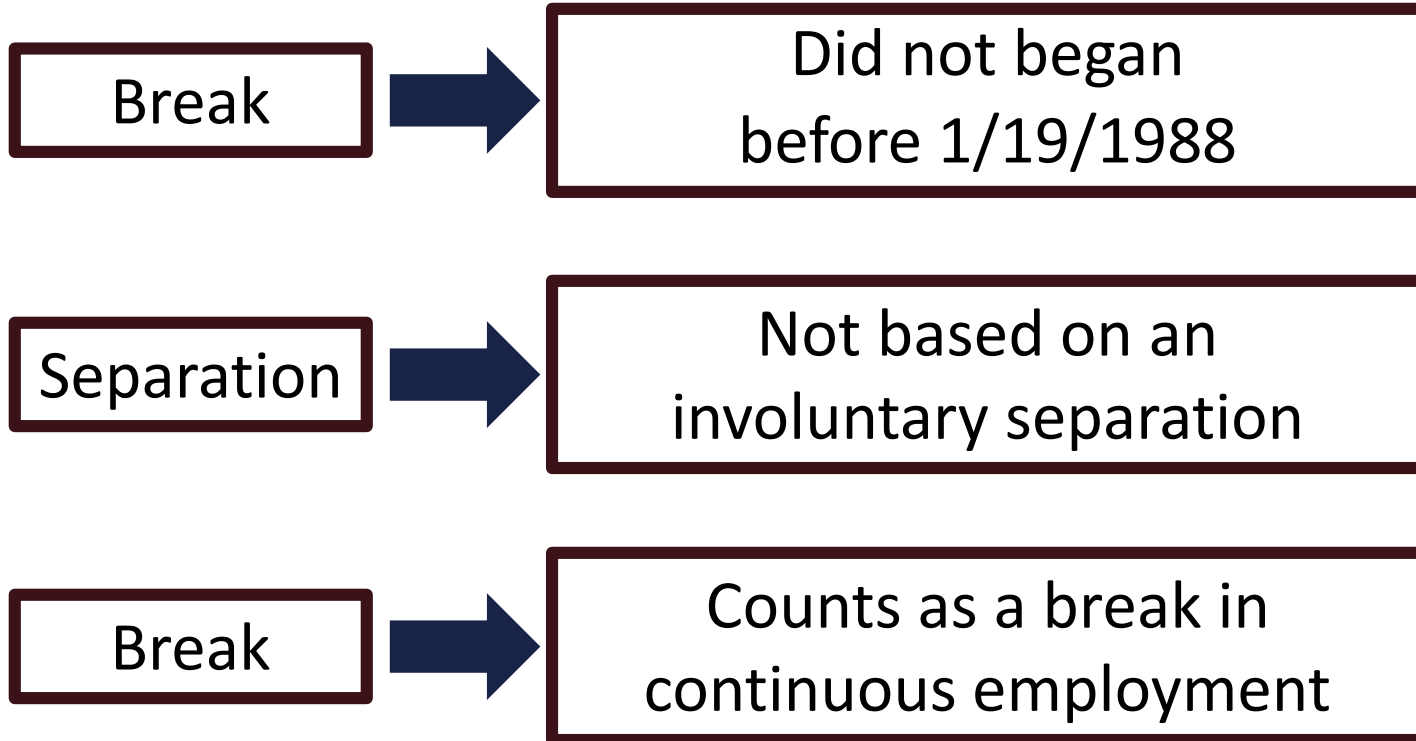
Doug resigned from his CSRS-Special secondary LEO position in 1986. In 2002, he accepts a secondary LEO position.



# Is this Continuous Employment?

---

Vicky was a Fire Chief (secondary position) covered by CSRS-Special. She was injured in 2001 and was reassigned to a Staffing Specialist position. She is now fully recovered and has applied for a vacant secondary firefighter position.



# **Creditable Service Rules**

# CSRS – LEO/FF Service Deposits

---

Under special retirement non-deduction service counts for eligibility and mandatory separation even if the service deposit is not paid.

- Service performed before 10-1-1982:
  - Annuity reduced (10% of deposit amount owed) if deposit is left unpaid
- Service performed on/after 10-1-1982:
  - No credit for computation if deposit is left unpaid (deposit equals 7.5% of basic pay, plus interest)

# LEO/FF Service Redeposits

---

Refunded service counts for retirement eligibility, but may not factor in to the annuity computation.

➤ **CSRS** Refunded service ending:

- Before 3-1-1991, an actuarial reduction is applied to the annuity if the refund is not paid
- On/After 3-1-1991, if refund not paid service will not be included in the annuity computation

➤ **FERS** Refunds must be paid in or for credit in the annuity computation

# FERS – LEO/FF Service Deposits


---

- Non-deduction service performed before 1-1-1989 may be creditable as LEO/FF service if:
  - Position is approved (LEO/FF) and covered under special retirement and not excluded from retirement coverage, and
  - Deposit paid (deposit equals 1.3% of basic pay plus interest)
- Non-deduction service performed on/after 1-1-1989:
  - Is **not** creditable

# CSRS & FERS – Military Service

---

**Cannot be credited as LEO/FF  
service unless...**



**Military service interrupts civilian  
LEO/FF service and the employee  
is properly restored to the civilian  
position (USERRA)**



**It is then treated as civilian service  
(military deposit may be required)**



# Mandatory Separation – LEO/FF

---

The end of the month in which employee  
reaches age 57  
and  
special retirement ELIGIBILITY  
(20 years of LEO / FF service)

# Mandatory Separation – LEO/FF

---

- Employee is not subject to mandatory separation if they are not in covered LEO/FF position
- Written notice **MUST** be provided at least 60 days before mandatory separation

# Mandatory Separation – LEO/FF

---

- Mandatory separation can be waived
- Waivers are based on public interest, not just the employee's request!
- Obtain waivers prior to issuing notice

# Mandatory Separation – LEO/FF

---

## Approval of waivers

- Before age 60 – Component Head
- CSRS after 60 – Agency Head sends recommendation letter to OPM
- FERS after 60 – The President

**Good Luck!**